



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

APPEAL DECISION SUMMARY

APPEAL No: 2010-2025

DECISION DATE: October 4, 2010

OUTCOME: (check one)

☒ X SUSTAINED ☐ REVERSED ☐ REMANDED
☐ INVALID/FULL
☐ SUSTAINED and REMANDED
☐ REVERSED and REMANDED
☐ AGENCY ERROR/OTHER

ISSUE ON APPEAL: Excess resources –Aged, Blind or Disabled (ABD)

GENERAL RULE OF LAW: Standards ABD resource determination:

Conclusions of Law and Policy:

1. Federal regulations describe categorical requirements for determining an individual's coverage as categorically and medically needy. Code of Federal Regulations, 42 CFR §435.500.
2. In order to be eligible for Medicaid, in addition to meeting non-financial requirements, an individual must meet all the requirements of a Medicaid covered group. There are two classifications of covered groups, the categorically needy ("CN") and the medically needy ("MN"). The CN classification is divided into subclassifications of categorically needy, categorically needy non-money payment ("CNNMP") and medically indigent ("MI"). Within some covered groups are several definitions of eligible individuals. The agency must verify that an individual meets the definition of a covered group's requirements in order for that individual to be eligible for Medicaid. Medicaid Manual, Volume XIII, M0310.001, A (p. 1).
3. There are nonfinancial and financial eligibility requirements that must be met before an individual can be determined eligible for Medicaid. The financial eligibility requirements include an evaluation of asset transfers, resources and income. Asset transfers may affect eligibility for institutionalized individuals. Resources and income must be within the resource and income limits appropriate to the individual's covered group. Medicaid Manual, Volume XIII, M0210.001, B 1-2 (p. 1).

4. Enrollees must report changes in circumstances which may affect eligibility and/or patient pay within 10 days from the day the change is known. Medicaid Manual, Volume XIII, M1520.100, A (p. 1).
5. The agency must evaluate the eligibility of all Medicaid enrollees, with respect to circumstances that may change, at least every 12 months. An individual's continued eligibility for Medicaid requires verification of income for all covered groups and resources for covered groups with resource requirements. Blindness and disability are considered continuing unless it is reported that the individual is no longer blind or disabled. Medicaid Manual, Volume XIII, M1520.200, A (p. 4).
6. As a program based on need, Medicaid uses the value of a person's countable resources as one of two financial criteria in determining eligibility. The other criterion is income. Medicaid Manual, Volume XIII, M1110.001, A (p. 1).
7. Resources are cash and any other personal or real property that an individual owns, or has the power to convert to cash and is not legally restricted from using for his support and maintenance. Medicaid Manual, Volume XIII, S1110.100, B, 1, (p. 3).
8. The eligibility worker must verify the value of all countable, non-excluded resources. Medicaid Manual, Volume XIII, M0130.300, H (p. 8).
9. The value of any asset that meets the definition of a resource counts against the applicable resource limit, unless otherwise excluded. Medicaid Manual, Volume XIII, S1110.200 (p. 6).
10. The assistance unit for an ABD individual is just the individual – one person. Medicaid Manual, Volume XIII, M0530.100, A (p. 13).
11. Ownership interests in property, whether real or personal, can occur in various types and forms. Since the type and form of ownership may affect the value of property and even its status as a resource, they are significant in determining resource eligibility. An individual may have sole ownership of a property or may share its ownership with others. Medicaid Manual, Volume XIII, S1110.500, A (p. 11).
12. Shared ownership of (real or personal) property means that two or more people own it concurrently. Medicaid Manual, Volume XIII, S1110.510, B 2 (p. 12).
13. Ownership of other real property [other than the home] generally precludes eligibility. The property's equity value is counted with all other countable resources. One exception to this policy is if the property cannot be sold after a reasonable effort to sell it has been made. Medicaid Manual, Volume XIII, M1130.160, A 1; A 2 (p. 16).

14. For real property, the current market value (CMV) or fair market value (FMV) is 100% of the local tax assessed value. Medicaid Manual, Volume XIII, M1110.400, A 1 (p. 10).
15. Ownership of real property must be verified. Ownership is verified by one of the following:
- tax assessment notice;
 - recent tax bill;
 - current mortgage statement;
 - deed;
 - report of title search

Medicaid Manual; Volume XIII, M1130.100, E 1a; E 1b (p. 4).

16. Real property may be excluded as a resource if it is occupied by the applicant/recipient, is for sale, or is income producing. Medicaid Manual, Volume XIII, M1130.100, A 1 (p. 1); M1130.140, A 1 (p. 13); M1130.500, A, B (p. 48).
17. For MI ABD cases, the value of an individual's ownership interest in jointly owned real property is an excluded resource for as long as sale of the property would cause undue hardship, due to loss of housing, to a co-owner. Undue hardship would result if such co-owner:
- uses the property as his or her principal place of residence;
 - would have to move if the property were sold; and
 - has no other readily available housing.

If someone alleges that the sale of certain real property would force a co-owner living on it to move, obtain:

- the individual's signed statement to that effect, and
- evidence of joint ownership (see S1130.100, E.1.b.-d.).

Medicaid Manual, Volume XIII, S1130.130, Appendix 1 (p. 10).

18. Effective March 1, 2009, the ABD 80% FPL for one person was \$722; the QMB monthly income limit for one person is \$903; the SLMB monthly income limit for one person is \$1,083; the QI-1 monthly income limit for one person is \$1,219, and the QDWI monthly income limit for one person is \$1,805. Medicaid Manual, Volume XIII, M0810.002, A 4a; A 5 (p. 2).
19. The resource limit for one person in the Categorically Needy, Categorically Needy Non-Money Payment, and Medically Needy covered groups is \$2,000. The resource limit for MI covered groups for one person is \$6,600. Medicaid Manual, Volume XIII, M1110.003, B 2 (p. 2).

AGENCY DECISION: The hearing officer sustained the action of the agency, based upon the following:

The DSS initiated the Appellant's Medicaid renewal. The Appellant jointly owned property in another state. The local agency determined that the Appellant did not meet of the real property exemption criteria; therefore, the resources exceeded the limit for full coverage Medicaid. Accordingly, the local agency terminated the Appellant's Medicaid eligibility.

APPLICABLE CITATIONS FOR ACTION:

Code of Federal Regulations

42 CFR §435.500

Medicaid Manual, Volume XIII

M0130.300, H (p. 8)

M0310.100, A (p. 1)

M0530.100, A (p. 13)

M0810.002, A 5 (p. 2)

M1110.001, A (p. 1)

M1110.003, B, 2 (p. 2)

M1110.100, B 1 (p. 3)

S1110.200 (p. 6)

M1110.400, A 1 (p. 10)

S1110.500, A (p. 11)

S1110.510, B 2 (p. 12)

M1130.100, A 1 (p. 1)

M1130.100, E 1a; E 1b (p. 4)

S1130.130, Appendix 1 (p. 10)

M1130.140, A 1 (p. 13)

M1130.160, A 1; A 2 (p. 16)

M1130.500, A, B (p. 48)

M1520.100, A (p. 1)

M1520.200, A (p. 4)